

# United States Department of the Interior

OFFICE OF THE SECRETARY  
Washington, D.C. 20240

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## Memorandum

To: Director, Bureau of Land Management  
Director, National Park Service  
Director, Fish and Wildlife Service  
Deputy Commissioner, Bureau of Indian Affairs  
Director, Office of Managing Risk and Public Safety  
Director, Office of Budget

From: Assistant Secretary - Policy, Management and Budget

Subject: Policy Guidance and Direction, Wildland Fire Rehabilitation and Restoration

At this time the Department has no comprehensive policy or guidance on conduct of rehabilitation and restoration treatment projects following wildland fires. Having consistent policy throughout the Department and with the USDA-Forest Service is essential for conducting prudent and effective activities by each bureau as well as on an interagency basis.

For several months an interagency, interdisciplinary team has studied a number of issues involving the scope and direction of this program, known as either Emergency Fire Rehabilitation (EFR) or Burned Area Emergency Rehabilitation (BAER). This team developed a set of recommendations which each of you had the opportunity to review. That review surfaced two major policy differences. I have had the opportunity to consider those issues and meet with your designated representatives to discuss the merits of each bureau's position. At that meeting we agreed to proceed as outlined below. These decisions are incorporated in the attached set of comprehensive policies that will apply in this Department. The USDA-Forest Service will join us in applying these same policies so that the two departments will speak and work with one voice in EFR/BAER program.

### Issue #1 - Use of trees as a permissible emergency rehabilitation treatment

Use of trees as a permissible emergency rehabilitation treatment under certain circumstances is allowed as a pilot or demonstration program for 1-2 years (depending on the time necessary to develop a set of activities suitable for evaluation). Use of trees shall be for biological/ecological circumstances, not for commercial forestry purposes. The dollar amount to be spent on planting trees will be subject to a cap, above which approval is required at a higher level.

In order to meet the forest land trust responsibilities of Public Law 101-630, Title III, Section 305(b)(1), the Bureau of Indian Affairs may require additional resources for replanting of commercial timber on Indian lands. We will address this issue as part of the development of the Department's FY00 budget.

Issue #2 - Repair or replacement of minor facilities through the emergency rehabilitation program

Replacement of repair of minor facilities is not an appropriate use of emergency fire rehabilitation funds.

In the FY00 budget the Department of the Interior will look at options for establishing a source of funds (such as that coming from fee revenues) to be available to meet emergency facilities needs resulting from fires or other natural events.

To implement the above decisions, as well as the full set of policies contained in the attached report, I am asking that the following actions take place:

1. Department of the Interior EFR/BAER program leaders, working with the Office of Managing Risk and Public Safety and with the USDA-Forest Service, expeditiously incorporate the attached EFR/BAER policies into the Departmental Manual. Consideration should be given to development of an interim policy document for use as soon as possible.
2. The Bureau of Indian Affairs include within their FY00 budget request one or more options for addressing restoration of commercial forests on Indian lands damaged by wildland fire.
3. The Office of Budget and the Office of Managing Risk and Public Safety develop options for consideration in the FY00 budget process for establishing a source of funds (such as that coming from fee revenues) to be available to meet emergency facilities needs resulting from fires or other natural events.
4. Department of the Interior EFR/BAER program leaders, working with the Office of Managing Risk and Public Safety and with the USDA-Forest Service, conduct a review of the use of trees as an EFR/BAER treatment no later than January 2001 (following completion of the 2000 fire season).

Attachment

cc: Assistant Secretary - Land and Minerals Management  
Assistant Secretary - Fish and Wildlife and Parks  
Assistant Secretary - Indian Affairs  
Science Advisor  
Chief, USDA-Forest Service

## **Wildland Fire Rehabilitation and Restoration Issues**

### **Policy Decisions/Outcomes for Incorporation into Manuals and Handbooks**

#### **A. General**

##### Issue A-1

###### Definitions

- Fire Suppression Activity Damage: Emergency actions taken to repair or rehabilitate damage to lands, resources, and facilities directly attributable to the wildland fire suppression effort or activities. The scope of Fire Suppression Activity Damage actions are unplanned and unpredictable requiring funding on short notice.
- Emergency Fire Rehabilitation/Burned Area Emergency Rehabilitation (EFR/BAER): Planned actions taken during and after a wildland fire to stabilize and prevent unacceptable resource degradation or to minimize threats to life or property resulting from the fire. The scope of EFR/BAER projects are unpredictable and require funding on short notice.
- Fire Damage Restoration: Non-emergency replacement of facilities and resources damaged by wildland fire or the re-establishment of ecosystem structure and functions. Restoration projects can be programmed and budgeted through normal procedures.
- Fuels Management Project Rehabilitation: Actions taken as part of fuels management projects (principally prescribed fire) to prevent unacceptable resource degradation, to minimize threats to life or property resulting from the project, or to promote the re-establishment of ecosystem structure and functions consistent with land management planning objectives. Fuels Management Project Rehabilitation are programmed and budgeted through normal procedures.

##### Issue A-2

###### Manuals and Handbooks

- The four types of post-fire activities (including allowable activities, scope, funding, etc.) will be documented in the Department of the Interior Departmental Manual and the USDA-FS FSM 2523 and Handbook FSH 2509.13.
- Develop a Handbook to provide technical and operational guidance that will be adopted by DOI bureaus and USDA Forest Service; may include individual bureau/agency-specific procedures, etc. if necessary/appropriate.

##### Issue A-3

###### Native Plants

- Natural recovery by native plant species is preferable to seeding, either of natives or non-natives; seeding should be used only if necessary to prevent unacceptable erosion or to resist competition from exotics or invasive species.
- To the extent permitted by law, introduction of exotic species (as defined by Executive Order 11987) into natural ecosystems will be restricted unless the Secretary of the Interior or Agriculture finds that such introduction will not have an adverse effect on natural ecosystems.

#### Issue A-4

##### Long-term Consequences

- Conduct all post-fire treatments in a socially and environmentally acceptable manner, compatible with, and to avoid foreclosure of, long term restoration and land use plans and opportunities.

#### Issue A-5

##### Monitoring and Evaluation

- Monitoring is necessary to assess if proposed treatments were properly implemented, if actual treatments were effective and if additional treatments or maintenance are needed to make the project successful.
- Monitoring and evaluation of post-fire treatments are critical for understanding and improving such treatments; collection and dissemination of information should be an integral part of all post-fire treatments.
- Priority should be given to develop a simple interagency mechanism for archiving and broadly disseminating the results of monitoring and evaluation of treatments and techniques.

#### Issue A-6

##### Analysis of Risks and Costs

- All decisions to undertake rehabilitation or restoration treatments are to be based on sound analyses of the possible biological, hydrological, geological, and social consequences of not undertaking treatments.
- Treatments are to be undertaken only when the analysis of risks shows that treatments are likely to reduce risks significantly and will be cost-effective (including consideration of long term benefits and non-market benefits).

## **B. Fire Suppression Activity Damage**

#### Issue B-1

##### Scope and Definition

- Repair and rehabilitation of damage to lands, resources, and facilities directly attributable to the wildland fire suppression effort or activities, including: dozer lines, camps and staging areas, facilities (fences, buildings, bridges, etc.) damaged, handlines, roads; this work should be completed before

incident demobilization if appropriate, or as soon thereafter as possible.

#### Issue B-2

##### Funding

- Funding for Fire Suppression Activity Damage activities will come from the Suppression Operations subactivity (as defined in the 1998 President's Budget) and will be charged to the project code for the wildland fire suppression effort that resulted in the damage.
- Project funds codes for the wildland fire suppression effort will be held open for a sufficient length of time to capture all Fire Suppression Activity Damage rehabilitation. This includes rehabilitation damage repair that occurs after incident demobilization and work that is performed by crews not involved with the original suppression or any suppression damage repair. Fire Suppression Activity Damage repair will not be charged to EFR/BAER budget subactivities.

#### Issue B-3

##### Responsibility

- This work will be performed primarily by the suppression incident organization as soon as possible, prior to or during demobilization; some activities may need to be conducted by other personnel at a later time when conditions are more appropriate.
- Fire Suppression Activity Damage repair is an integral part of most wildland fire incidents and should be supported by the same mobilization, resource availability, hiring and pay procedures as other aspects of the incident, and should have functional status within the incident command structure.
- The incident resource advisor and EFR/BAER personnel should work closely together during the transition to post-fire activities and perform tasks in a manner that reflects the shifting responsibilities and duties.
- Repair of Fire Suppression Activity Damage that cannot be completed before incident demobilization should be accomplished as soon as conditions are appropriate. When no EFR/BAER treatments are anticipated (as is the case on the vast majority of wildland fires), Fire Suppression Activity Damage repair should be accomplished by the suppression organization.

### **C. Emergency Fire Rehabilitation/Burned Area Emergency Rehabilitation (EFR/BAER)**

#### Issue C-1

##### Scope and Definition

- The costs and magnitude of emergency rehabilitation actions should be commensurate with threats to life, property, or resources.

- Emergency actions taken after a wildland fire to stabilize and prevent unacceptable resource degradation or to minimize threats to life or property resulting from the fire. EFR/BAER projects are unpredictable, requiring funding on short notice.
- Emergency rehabilitation actions are appropriate to:
  - minimize threats to human health and safety or property
  - stabilize soil to minimize loss or degradation of productivity
  - stabilize biotic communities to minimize unacceptable change to ecosystem structure and function; this will allow use of a variety of vegetative types, including shrubs, forbs, and grasses, when deemed appropriate; planting of trees as part of a project is acceptable only if demonstrated as necessary to meet the project objectives. (See C-1A)
  - stabilize watersheds to prevent unacceptable downstream damage on and off site.
  - minimize the establishment of non-native invasive species to prevent unacceptable degradation of the burned area; treatments may include application of herbicides.
  - stabilize and prevent unacceptable degradation of critical cultural and natural resources
  - minimize unacceptable deterioration of water quality.
- Handbooks and manuals that implement this policy should specifically allow the following types of actions and treatments:
  - replace/repair physical improvements (guard rails, sanitation systems, etc.) damaged by fire that are required to significantly minimize threats to human health and safety when other alternatives, such as closing areas to public use, are not feasible
  - repair/replace/construct physical improvements necessary to prevent degradation of land or resources (e.g. exclusion fences)
- In addition, the following are legitimate activities to include in emergency rehabilitation plans and will be approved if appropriately justified:
  - monitoring and evaluation to determine effectiveness of treatments; any monitoring must be accompanied by a plan and the results documented
  - maintenance of rehabilitation actions and structures necessary to continue the effectiveness of the treatments installed. (See C-7)
- Manuals and handbooks will provide operational guidance for applying the above criteria. To promote consistency in policy and application, these manuals and handbooks will be developed on an interagency basis whenever possible.
- Providing the law enforcement resources necessary for protection of public safety and of natural and cultural resources as a result of EFR/BAER projects and activities should be accomplished within existing capabilities and by shifting priorities. Extraordinary situations require justification and approval in an EFR/BAER plan.

#### Issue C-1A

### Use of Trees in Emergency Rehabilitation Treatments

- Use of trees as (or as part of) an emergency rehabilitation treatment is allowed only if the rehabilitation plan demonstrates that trees are necessary to minimize unacceptable change to ecosystem structure and function, including prevention or mitigation of non-native infestations.
- Acceptable uses may include:
  - circumstances where succession of native forest species and the eventual reestablishment of natural vegetative communities will be precluded by the immediate and aggressive invasion of non-native species; e.g. where the natural reestablishment of native cottonwoods and willows in Southwestern riparian areas is difficult due to the invasion of non-native salt cedar or where stabilization of slopes using only grasses, forbs, and shrubs precludes natural recolonization by native trees.
  - critical habitat for threatened or endangered species will be permanently impaired. In this circumstance, planting trees must significantly mitigate deleterious impact of the species of concern within the two-year time frame for EFR/BAER project completion; e.g. A tree planting project cannot be authorized if its purpose is to accelerate reforestation to benefit a species that requires old growth forest for critical habitat.
- Use of trees as (or as part of) an emergency rehabilitation treatment is limited to no more than \$25,000 regardless of the percentage of total project costs, unless otherwise approved by the bureau director, who may make the decision to approve or not approve the use of trees in consultation with other bureaus and with the Department (in the case of the Department of the Interior).

### Issue C-2

#### Emergency Rehabilitation Plans

- Each emergency rehabilitation project requires the preparation, submittal, and approval of a plan or plan supplement except where programmatic EFR/BAER plans are already in place for the project.
- EFR/BAER project plans must include provisions for monitoring and evaluation of treatments and techniques and a procedure for collecting, archiving, and disseminating results.
- For multi-agency fires, joint planning and implementation is encouraged.

### Issue C-3

#### Emergency Rehabilitation Plans - Timing

- The timing of submittal of emergency rehabilitation plans often depends on the environment/landscape of the fire and the complexity; however, submittal of initial emergency rehabilitation plans must be shortly after the fire in order to ensure credibility and to document the urgency of the situation.
- Each agency may establish submittal time frames for those projects that do not involve or affect

other agencies.

- For multi-agency projects, initial plans must be submitted within 10 days following control of fire; if additional time is needed extensions can be negotiated with those with approval authority.
- As part of the implementation of the policy a common plan format is to be developed; this format should be electronic and include aspects for planning, budgeting, implementation, monitoring, and maintenance.
- Unless otherwise specifically approved, no treatments, monitoring, or evaluation activities may exceed three years after initial project approval.

#### Issue C-4

##### Emergency Rehabilitation Plans - Approval

- Each agency may establish approval authority levels and time frames for those projects that do not involve or affect other agencies.
- For multi-agency projects approval authority will be at least at the regional or state office level. National Office level review will occur in accordance with agency thresholds. Approval/disapproval must occur within seven days of receipt by the approving office(s).
- Revisions to plans as a result of new information should be prepared and submitted as needed; the same approval levels and time frames as for initial plans apply.

#### Issue C-5

##### Emergency Rehabilitation Plans - Evaluation of Alternatives

- A cost risk/analysis of proposed emergency rehabilitation treatment actions is required in each plan to assist local line officers and reviewing authorities in assessing the proposed actions. The level and sophistication of the analysis should be commensurate with scope and complexity of the plan.
- Develop and implement a common interagency cost-risk analysis.
- Plans must ensure that the treatments proposed are environmentally, culturally, and socially acceptable and meet the objectives of land use management plans and comply with legal requirements.

#### Issue C-6

##### Funding - Source/Use

- Funding for Emergency Rehabilitation activities will be provided by the Wildland Fire Management Wildland Fire Operations Activity (Emergency Rehabilitation Subactivity).
- Agencies may shift base 8 personnel costs or back fill in accordance with standard procedures.

#### Issue C-7

##### Funding - Availability



- Treatments (involving plant materials) in the initial approved plan must be accomplished as soon as possible but no later than within two growing seasons after plan approval; extensions require revised plans and approvals.
- Treatments (involving stabilization structures) in the initial approved plan should be accomplished before the next damaging storm or run-off event or to prevent further degradation.
- Costs of monitoring and evaluation to determine effectiveness of treatments will be covered for up to three years; extensions require revised plans and approvals.
- Costs of maintaining emergency rehabilitation treatments and structures may be covered for up to three years; extensions require revised plans and approvals. Maintenance beyond the period of the plan is to be covered through normal operating funds.

#### Issue C-8

##### Environmental Compliance

- Existing procedures for compliance with the National Environmental Policy Act are adequate and sufficient; no changes are recommended.
- Existing procedures for compliance with the Endangered Species Act are adequate and sufficient; no changes are recommended.
- Existing procedures for compliance with the permitting requirements (relating to placement of dredged or fill materials) of section 404 of the Clean Water Act may *not* be adequate or sufficient; this is to be addressed on an interagency basis with the Environmental Protection Agency and the Corps of Engineers [Note: Section 404 Nationwide Permit #37 covers activities of FS and NRCS, but not DOI. DOI needs to be included in this permit].

#### Issue C-9

##### Cultural Resource Clearances

- Develop national level Programmatic Agreement (agencies, ACHP, NCSHPO) with local or regional agreements between the agencies and the SHPOs as needed or appropriate.
- Develop Emergency Discovery Plans (EDPs) on a broad scale (based on common resources) to facilitate review and consultation during incidents; these could be incorporated into existing land/resource/fire planning documents by reference.
- Include Tribal participation in local agreements, development of EDPs, separate agreements, or on a case-by-case basis.
- Supervisory Personnel (including field supervisors) must meet Secretary of the Interior's Standards and Guidelines for professional qualifications.
- Create a National Cultural Resource Advisory Group to provide advice on program and policy issues and to review and concur with rehabilitation plans on a case-by-case basis, when requested by normal bureau/agency approving authorities.

Issue C-10

## Responsibility

- EFR/BAER activities are an integral part of some wildland fire incidents and should be supported by the same mobilization, resource availability, incident business management procedures as other aspects of the incident, and should have functional status within the incident command structure. Once fire suppression demobilization has occurred, the EFR/BAER team reports to and is accountable to the agency administrator.
- Assessment and Planning activities: agency personnel supplemented by resource-ordered technical assistance.
- Implementation activities: agency personnel as supplemented by contract, EFF, etc.
- Monitoring activities: agency personnel with possible supplementing by contract personnel or other agencies.
- Maintenance: agency personnel as supplemented by contract or other means.

Issue C-11

## Documentation of Results and Accomplishments

- To provide for accountability for funding provided, develop a standard, interagency project accomplishment report format that covers such issues as treatments applied, dollars spent, and so on; this report may require more detailed information for local management and less detailed information for national office/Departmental use.
- Summarize accomplishment information to be collected and archived by program leads in field and national office level for use in program planning, review, and oversight as necessary.
- Monitoring/Results of Treatments
  - Funding for monitoring requires submission of report(s) on success/failure of treatments
  - Priority should be given to develop a simple interagency mechanism for archiving and broadly disseminating the results of monitoring and evaluation of treatments and techniques.
- All information collected and disseminated should be in an electronic format consistent with agency records management guidelines.

**D. Fire Damage Restoration**Issue D-1

## Scope and Definition

- Non-emergency replacement of facilities and resources damaged by wildland fire or the re-establishment of historic ecosystem structure and functions. All Fire Damage Restoration

projects must be programmed and budgeted with non-fire program funds; wildland fire operations and emergency rehabilitation funds cannot be used to support these efforts.

- Natural resource restoration activities include:
  - restoration of fire damaged ecosystems to emulate historical or pre-fire structure, function, diversity, and dynamics, if possible or desirable, and consistent with existing land management plans
  - application of herbicides and other site preparation activities to reduce weed competition prior to seeding burned areas.
  - reforestation in areas where a seed source has been eliminated and restoration is consistent with forest management plans.
- Cultural resource restoration activities include:
  - actions taken to restore cultural resources, consistent with land management plans.
- Facilities restoration activities include:
  - replacement of normal operating facilities that meet land management plans (e.g. camp-grounds, recreation/interpretive sites, visitor centers, administrative facilities, roads, housing, bridges) and which are not critical for ensuring public health and safety or which do not enhance the integrity of natural or cultural resources.
- Under certain circumstances, minor facilities may be replaced as part of EFR/BAER treatments (see Issue C-1).

#### Issue D-2

##### Responsibility

- Responsibility for planning and implementation of restoration activities lies with normal program areas in each bureau/agency.

#### Issue D-3

##### Funding

- Funding for Fire Damage Restoration should NOT come from the Wildland Fire Management appropriation. A recommendation for funding is included in Section F below.

### **E. Fuels Management Project Rehabilitation**

#### Issue E-1

##### Scope and Definition

- Actions taken as part of a fuels management project to prevent unacceptable resource degradation.
- Fuels treatments (either through application of fire, mechanical, or other means) may result in conditions that require additional actions to:

- stabilize soil to minimize loss or degradation of productivity.
- repair/replace/construct physical improvements necessary to prevent degradation of lands or resources (e.g. exclusion fences).
- minimize the establishment of invasive species to prevent degradation of the burned area as a result of fuels management projects.
- Any post-fire rehabilitation activities are to be an integral part of the fuels management project plan and must be deemed appropriate in the context of the overall purpose and objectives of the project.

#### Issue E-2

##### Management Planning, Control, and Oversight

- Any post-fuels treatment activities must be included in appropriate project planning documents and be essential to the fuels treatment objectives.
- Any post-fuels treatment activities must be approved in advance of project implementation (except for the inadvertent loss of facilities) as an integral part of fuels treatment projects.
- Fuels treatment plans should not be approved if they are projected to cause unacceptable resource degradation that will require major expenditure of funds.

#### Issue E-3

- Funding for Fuels Management Project Rehabilitation must not come from the Emergency Rehabilitation element of the Operations Activity in the Wildland Fire Management appropriation. Funding for Fuels Management Project Rehabilitation may come from the Hazardous Fuels Reduction element of the Operations Activity in the Wildland Fire Management appropriation and other available funds.

## **F. Sources of Funding**

#### Issue F-1

Funding sources for each type of activity:

- Fire Suppression Activity Damage:
  - Wildland Fire Appropriation
  - Operations Activity
  - Suppression Subactivity
- Emergency Fire Rehabilitation/Burned Area Emergency Rehabilitation:
  - Wildland Fire Appropriation

### Operations Activity

#### Emergency Fire Rehabilitation Subactivity

- Fire Damage Restoration:  
Combination of the following sources, depending on complexity, size, and other factors:
  - Base bureau/agency operating programs (add fire damage to the normal workload of base programs and prioritize all needs)
  - Request supplemental appropriations, with a joint interagency submission if appropriate
- Fuels Management Project Rehabilitation:  
Wildland Fire Appropriation  
Operations Activity  
Hazardous Fuels Reduction Subactivity

## **G. Program Management/Oversight**

### Issue G-1

- EFR/BAER program leads in each bureau/agency will function as an interagency group to coordinate program issues, implementation, training, oversight, sharing of information, and program evaluation; this group must involve wildland fire management and budget and will involve other program areas such as cultural and natural resources, as necessary and appropriate, to ensure an integrated interagency program.